

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>TODD A. BROWN,</b>	:	<b>CIVIL ACTION NO. 3:16-cv-1886</b>
	:	
<b>Plaintiff</b>	:	<b>(Judge Munley)</b>
	:	
<b>v.</b>	:	
	:	
<b>WARDEN SWAYNE L. BLACK, <i>et al.</i>,</b>	:	
	:	
	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, to wit, this 27<sup>th</sup> day of September 2017, upon consideration of Defendants' motion (Doc. 22) to dismiss and Plaintiff's motion (Doc. 30) for appointment of counsel, and for the reasons set forth in the Court's memorandum of the same date, it is hereby ORDERED that:

1. Defendants' motion (Doc. 22) to dismiss is granted in part and denied in part.
  - a. The motion is GRANTED with respect to the First Amendment Retaliation and Fourteenth Amendment Failure to Protect Claims. The Clerk of Court is directed to note on the docket sheet that Defendant Rhone is TERMINATED
  - b. The motion is DENIED with respect to the Fourteenth Amendment Conditions of Confinement Claim. This claim will proceed against Defendants Black and Weikert.
2. Defendants Black and Weikert shall file a responsive pleading in accordance with the Federal Rule of Civil Procedure 12(a)(4)(A).

3. Plaintiff's motion (Doc. 30) for appointment of counsel is DENIED without prejudice.

**BY THE COURT:**

s/James M. Munley  
**JUDGE JAMES M. MUNLEY**  
**United States District Court**